Crl.A. 411/2001
BEFORE
THE HON'BLE MR JUSTICE P.G.AGARWAL

Heard Mr. P.Mahanta, learned amicus curiae and Mr.D.Saikia, learned P.P., Assam.

In Sessions Case No.85/2001 the Additional Sessions Judge, Dibrugarh convicted the accused appellant Mahadeo Tassa under Section 436 IPC and sentenced him for imprisonment for 10 years with fine of Rs.1000/-, in default, to undergo imprisonment for 1 year Hence, the present appeal.

Prosecution case, in brief, is that the accused Mahadeo Tassa and his wife Debi Tassa (PW-4) and PW-5 Maheswar Kanda are garden labourers of Maizan Tea Estate and they were allotted with Company quarters in the name of Debi Tassa (PW-4). On the date of occurrence, i.e. 03.06.2001 the said house was set at fire as a result of which the house was completely gutted along with the articles lying therein. So far the incident of arson is concerned, the evidence of the tea garden labourers and neighbours to that effect, the same has not been disputed.

Learned amicus curiae, however, submits that there is no eye witness to the occurrence viz. no one did see the accused setting the house ablaze.

The case based on substantial evidence and the evidence of the wife of the accused is relevant. The incident had taken place during the day time and the accused driven out his wife and kids from the house by chasing them and thereafter set the house on fire and thereafter he was standing outside the house, to see the fire completely gutting the house. The neighbours came and they also saw the accused standing there without trying anything to reduce the fire. He was apprehended and sent to the Manager and thereafter taken to police station.

We find the chain of circumstances has been fully established and it was the accused appellant and none else to set the house on fire and as such his conviction under Section 436 IPC is maintained. However, on consideration of other aspects of the matter that the accused person is in jail custody, now nearly for about 6 years, we reduce the sentence and modify the same to the period already undergone by him. He be released from jail forthwith, if not required in connection with any other case.

Fess of learned Amicus Curiae is fixed at Rs.3000/- (Rupees three thousand only).

Send down the record.